

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )

**HENDERSON TELEPHONE COMPANY** )

File No. \_\_\_\_\_

Petition for Limited Waiver of the )  
 Federal Communications Commission's Rules )  
 Concerning Administration of the North )  
 American Numbering Plan )  
 Carrier Identification Codes (CICs) )

CC Docket 92-237

To: Common Carrier Bureau

**PETITION FOR LIMITED WAIVER**

Henderson Telephone Company ("Henderson" or "Petitioner"), by its attorneys, respectfully requests a limited waiver of the January 1, 1998 deadline for the transition to four digit Carrier Identification Codes ("CICs") and any attendant customer education requirements established in the above-captioned proceeding. Petitioner requests additional time to comply with the requirement that a carrier have four digit CIC capability. Petitioner is a small local exchange carrier which provides equal access to its customers. Petitioner does not routinely upgrade switch hardware or reprogram operating systems software. In its rural service area cost considerations are primary, and there is not a strong market for custom calling features. As demonstrated herein,

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good cause exists for this waiver<sup>1/</sup> because it is technically and economically infeasible for Petitioner to comply with the January 1, 1998 deadline for conversion to the four digit CIC capability. Accordingly, Petitioner requests an extension of time to implement four digit CIC capability.

### **Background and Facts**

On April 11, 1997, the Federal Communications Commission adopted its *Second Report and Order, In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc.* CC Docket No. 92-237, FCC 97-125 released April 11, 1997 ("Second Report & Order"), which set a January 1, 1998 deadline for all carriers to transition to four digit Feature Group D CICs. This Second Report & Order shortened the anticipated deadline from the year 2000 to January 1998.<sup>2/</sup> In April 1997 as soon as the Second Report & Order was released, Petitioner made efforts to assess what steps it needed to take to meet the January 1, 1998 deadline. Petitioner determined that in order for it to be able to have four digit CIC capability, it must upgrade the existing operating systems

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<sup>1/</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>2/</sup> *Second Report & Order* at para 4. The deadline had previously been extended from 1995 to 2000, so Petitioner had expected a six year transition period.

software on its Northern Telecom ("Nortel") switch so that the switch can support the four digit CICs. (All of Henderson's exchanges are currently operating on release version 402.52 of operating systems software, which does not have four digit CIC capability.) In the alternative, Henderson may purchase all new switch equipment which includes four digit CIC compatibility.

Since April 1997 Henderson has made a good faith effort to purchase an updated release of the operating system software necessary to have four digit CICs capability. However, when Henderson contacted Nortel to purchase the upgrade using the Rural Utilities Service contract, Nortel refused to deal. Negotiations as to payment and contract terms are taking months to work out. All the while, Henderson continues to contact other vendors, including Stromburg-Carlson and Mitel, regarding the purchase of new equipment and software.

In any event, an upgrade to any digital switch takes several months to schedule and install. Nortel has informed Petitioner that there is a long waiting list because the company is overwhelmed with upgrade requests. Petitioner is currently negotiating with Nortel on contract specifics. Once contracts are signed, a normal lead time of 180 days is expected for installation, testing and cut over. Based on these assumptions, a mid 1988 implementation is expected. If Petitioner engages in a competitive bidding process for purchase and installation of the new switch equipment and software from a different manufacturer, several more months will be required to complete the transition.

**Request for Waiver**

Petitioner requests a limited waiver of the January 1, 1998 deadline to transition to four digit CICs so that it has the time it needs to purchase and install the software upgrade. As the Commission is aware, the required operating system software which supports it is prohibitively expensive for a small and rural LEC such as Petitioner.<sup>3/</sup> Compliance with the January 1, 1998 deadline for transitioning to four digit CICs is technically infeasible since the software is not currently available, and the exorbitant cost is economically burdensome.

The Commission has previously recognized the technical and economic burden on small and rural LECs in purchasing software and equipment upgrades. In its December 10, 1995 Caller ID Order, the Commission issued a stay of its per call block and unblocking requirements in response to waiver petitions from several LECs, including small rural LECs, that claimed that providing blocking and unblocking was technically and economically infeasible.<sup>4/</sup> Delaying Petitioner's compliance with the January 1, 1998 CIC compliance deadline will not harm its customers. Rather, the customers will benefit from Henderson's rational conversion to four digit CIC capability at a slower pace, which is technically and economically feasible for the company. Therefore, Petitioner submits that grant of a waiver of the transition deadline in this instance will benefit the public interest.

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<sup>3/</sup> Henderson serves about 1,000 access lines.

<sup>4/</sup> *Order and Fourth Notice of Proposed Rulemaking*, 10 FCC Rcd 13796, 13808 (1995).

**Conclusion**

For the reasons explained, Petitioner requests a limited waiver of the January 1, 1998 deadline for implementation four digit CICs. Petitioner requests that a limited waiver be granted and an extension given until January 1, 2000. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

**HENDERSON TELEPHONE COMPANY**

By: Pamela L. Gist  
Pamela L. Gist  
B. Lynn F. Ratnavale  
Its Attorneys

Lukas McGowan, Nace & Gutierrez, Chartered  
1111 19th Street N.W. Suite 1200  
Washington, D.C. 20036  
Ph# 202-857-3500

**DECLARATION**

I, Loren Duerksen, hereby and state and declare:

1. I am Manager of Henderson Telephone Company, local exchange carrier in Henderson, Nebraska.

2. I am familiar with the facts contained in the foregoing Petition For Limited Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of October, 1997.

A handwritten signature in cursive script that reads "Loren Duerksen" followed by the initials "MGR".

Loren Duerksen, Manager  
Henderson Telephone Company

## CERTIFICATE OF SERVICE

I, Michael D. Hunter, of Lukas, McGowan, Nace & Gutierrez, Chartered, hereby certify that on this 6th day of October, 1997, a copy of the attached "Petition for Limited Waiver" was hand delivered to the parties listed below:

MuH

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Michael D. Hunter

John Muleta, Acting Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street NW, Room 500  
Washington, DC 20054

Geraldine Matise, Chief  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
2000 M Street NW, Room 235  
Washington, DC 20554

Elizabeth Nightingale, Esq.  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
2000 M Street NW, Room 235  
Washington, DC 20554

Kris Monteith, Esq.  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
2000 M Street NW, Room 235  
Washington, DC 20554